



Bureau of Health Promotion Tobacco Use Prevention Program

FAQs About the Missouri State Clean Indoor Air Law

1 – Does Missouri have a state law about smoking in indoor public places or work sites?

Yes. Sections 191.765 – 191.777 RSMo (2000), known commonly as the Missouri Clean Indoor Air Law, addresses smoking in public places. Work sites, whether public or private, are included in the statutory definition of a public place.

2 – Does this law prohibit smoking in indoor public places or work sites?

Yes, but not completely. The proprietor of the public place can determine whether smoking is to be allowed within the facility. If smoking is permitted, then the law describes the conditions for how Designated Smoking Areas must be established and posted.

3 – What is and what is not a “public place”?

The law defines “public place” as any enclosed indoor area used by the general public or serving as a place of work including, but not limited to:

- Work sites (public or private)
- Retail* and commercial establishments
- Restaurants*
- Public restrooms
- Educational facilities*
- Public transportation (bus, taxi*, limousine*, railroad, airliner, etc.)
- Places of recreation or entertainment (arenas*, concert halls, malls, theaters*, swimming pools, etc.)
- Daycare facilities**
- Libraries, art galleries, auditoriums, museums
- Health care facilities (clinics, hospitals, nursing homes, physician and dentist offices, etc.)

* See exemptions and stipulations below

** No smoking is to occur at child care facilities licensed by DHSS whenever children cared for under that license are present

The law provides exemptions :

- Designated areas in theater lobbies
- Institutions of higher education

The law stipulates the following are not considered a “public place”:

- Private residences
- Tobacco stores where greater than 50% of sales is related to tobacco products
- Performers on stage if smoking is part of the production
- Limousines for hire and taxicabs, where driver and all passengers agree to allow smoking
- Any enclosed indoor arena, stadium or other facility seating more than 15,000 persons and which may be used for sporting events
- An entire room or hall used for private social functions, provided that seating arrangements are under control of the function’s sponsor and not the proprietor

Additionally, the law states that the following are not considered a “public place” if there are conspicuously posted signs stating "Non-Smoking Areas are Unavailable":

- Bars and taverns

- Bowling alleys
- Billiard parlors
- Restaurants with less than 50 seats

4 – What conditions must be addressed by the proprietor to establish a Designated Smoking Area?

The law stipulates:

- the maximum size for a Designated Smoking Area
- signs indicating no-smoking and smoking areas must be posted and easily seen
- isolating the Designated Smoking Area in terms of seating arrangement, use of available ventilation systems, and physical barriers
- people smoking in nonsmoking areas must be asked to move to a Designated Smoking Area

5 – What is the maximum size allowed for a Designated Smoking Area?

The maximum size may never be greater than 30% of the entire space. The law further requires that the nonsmoking area must be of sufficient size to accommodate the usual demand by customers (that is, customers requesting nonsmoking areas should not have lengthy waits to be accommodated). Therefore, a Designated Smoking Area is sized to either be no more than 30% of the entire space or to appropriately reflect the usual demand for nonsmoking areas, whichever results in the smaller size for the Designated Smoking Area.

6 – How many signs are required?

This depends on whether the facility is smoke free, has a Designated Smoking Area, or is an exempted facility. Signs must be easily seen.

A smoke free facility need only have signs at each entrance into the building stating “This is a smoke free facility” “No smoking allowed” “Thank you for not smoking” or other similar statement.

A facility with nonsmoking areas and Designated Smoking Areas must have signs clearly identifying each area, so people clearly understand where smoking is or is not permitted.

An exempted facility need only have signs at each entrance into the building stating “Nonsmoking areas are unavailable.”

7 – Isn’t it required that a public place or work site has to provide a Designated Smoking Area?

No. The owner or proprietor can declare the entire facility to be smoke free.

8 – While seated in a nonsmoking section, I’ve often had eye irritation, noticed the odor of tobacco smoke, and sometimes seen tobacco smoke drifting into the nonsmoking section. Am I protected from secondhand smoke when the Designated Smoking Area meets the requirements of this state law?

No. Unless the Designated Smoking Area is in a completely separate facility with a separate ventilation system, secondhand smoke cannot be prevented from infiltrating into the nonsmoking section.

9 – Aren’t there special air filtration systems that can remove secondhand smoke?

No. No feasible ventilation system can reduce secondhand smoke exposure to safe levels. At best, these specialized air filtration systems can only remove the irritants and odors caused by secondhand smoke. However, many of the toxins in secondhand smoke are

odorless and invisible. Secondhand smoke is often not detected, which leave most people unaware of the extent to which they are actually exposed. Every reputable technical, scientific and medical expert, and even the companies that manufacture these ventilation systems agree that these systems cannot eliminate health risks due to secondhand smoke.

10 – If, while seated in a nonsmoking section, I don't see or smell tobacco smoke or have eye irritation, doesn't that mean the Designated Smoking Area works and I'm not exposed to secondhand smoke?

Not necessarily. Only a few of the more than 4,000 chemicals in secondhand smoke are visible, have an odor or cause eye irritation. Air filtration systems at best can only remove the irritants and odor and ventilation systems cannot efficiently remove secondhand smoke. The only known ways of protecting people from secondhand smoke are to either contain smoking in a separate facility with a separate ventilation system or to have the facility be completely smoke free.

11 – Who is responsible for implementing this law?

The state clean indoor air law by itself does not charge any specific agency with the responsibility for implementing this law. However, Section 192.020 RSMo has established a general duty and responsibility for the Department of Health & Senior Services to safeguard the public health. Therefore this agency will respond to concerns about possible violations of the state clean indoor air law by providing the affected proprietor with information about the provisions of the law and the harmful effects of secondhand smoke on health.

Enforcement of this law is described in Section 191.773 with a penalty of an infraction for persons found guilty of violating this law. The penalty for an infraction is a fine up to \$200 for an individual and up to \$500 for a corporation. Enforcement authority rests upon local prosecutors.

12 – How do I file a complaint about secondhand smoke in an indoor public place or work site?

You can contact any local public health agency, any district office of DHSS or the Bureau of Health Promotion toll-free at 1-866-726-9926. Local agencies that do not handle secondhand smoke complaints will forward them to the Bureau of Health Promotion, where they will receive prompt attention.

You can also contact the local police or sheriff to file a complaint.

13 – What happens if I file a complaint with the Bureau of Health Promotion about secondhand smoke in an indoor public place or work site?

Upon receipt of a complaint, a letter is sent to the proprietor of the public place or work site. This letter is primarily informational about the state law and educational about the effects of secondhand smoke. Brochures specific to these topics are included with the letter. The complainant is also provided a blind copy of the letter and enclosures. Because of employee concerns about possible retribution at a work site, the name of the complainant is not divulged.

14 – Would a proprietor be violating this law if a customer lights up a cigarette in a nonsmoking area?

This depends. No violation would occur if the proprietor or one of the employees asks the customer to extinguish the cigarette or to move to a Designated Smoking Area. However, a violation would occur if the proprietor or other person in charge allows a person to smoke in those areas where smoking is not permitted.

It should be noted that the person smoking in an area other than the Designated Smoking Area is in violation of this law.

15 – Can city or county governments have requirements that are more strict than the state law?

Yes. The law specifically allows local political subdivisions or local boards of education to enact more stringent ordinances or rules.

16 – How does the law affect tobacco use in public elementary and secondary schools?

The law prohibits use of tobacco (including smokeless tobacco) in any indoor area of a public elementary or secondary school, and on school buses.

17 – May school districts adopt stronger policies prohibiting tobacco use on school campuses or at school sponsored events?

Yes. School districts may choose to prohibit tobacco use by staff and visitors on all school property and at sponsored events. A separate section of state law, Section 407.933, RSMo already prohibits students (under age 18) from possessing tobacco products.

Additional questions regarding Missouri's Clean Indoor Air Law may be directed to the
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May 5, 2003